

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN O. ADOMEIT,

Plaintiff-Appellant,

v

ANDREA L. ADOMEIT,

Defendant-Appellee.

UNPUBLISHED

June 4, 1999

No. 213613

Macomb Circuit Court

LC No. 98-002000 DC

Before: Collins, P.J., and Jansen and White, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order dismissing plaintiff's action seeking custody of Sarina Adomeit for lack of standing. We affirm.

On June 28, 1995, defendant gave birth to Sarina Reyenne Adomeit. Plaintiff is not the child's biological father, and although he married defendant after Sarina's birth, he was not married to defendant at the time of Sarina's birth. On September 26, 1996, during the parties marriage, defendant executed a petition requesting the Macomb County Probate Court to appoint plaintiff Sarina's limited guardian. The limited guardianship placement plan executed by defendant in conjunction with the petition stated that defendant sought to create the limited guardianship for the purpose of obtaining health insurance for Sarina. The plan also provided that both parties would financially support and care for the child, and stated that defendant planned that the limited guardianship would continue until: "We successfully complete the adoption process for Steven to adopt Sarina." On October 17, 1996, the Macomb County Probate Court appointed plaintiff limited guardian of Sarina. On October 31, 1997, defendant filed for divorce in Oakland Circuit Court.¹ On April 9, 1998, plaintiff commenced the instant action for custody of Sarina. Concluding that defendant substantially complied with the limited guardianship placement plan, the trial court dismissed the case for lack of standing.

On appeal, plaintiff argues that the trial court erred when it ruled that plaintiff lacked standing as a limited guardian under MCL 722.26b; MSA 25.312(6b) to bring a suit for custody. We review motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Statutory interpretation is a question of law which is reviewed de novo on appeal.

Oakland Co Bd of Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n, 456 Mich 590, 610; 575 NW2d 751 (1998).

The Child Custody Act of 1970, MCL 722.21 *et seq.*; MSA 25.312(1) *et seq.*, governs child custody disputes between parents, agencies or third parties. *Booth v Booth*, 194 Mich App 284, 292; 486 NW2d 116 (1992). In regard to a limited guardian's standing to bring a child custody suit, the Child Custody Act provides, in pertinent part:

(1) Except as otherwise provided in subsection (2), a guardian or limited guardian of a child has standing to bring an action for custody of the child pursuant to this act.

(2) A limited guardian of a child does not have standing to bring an action for custody of the child if the parent or parents of the child have substantially complied with a limited guardianship placement plan regarding the child entered into pursuant to section 424a of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.424a of the Michigan Compiled Laws. [MCL 722.26b(1) and (2); MSA 25.312(6b)(1) and (2).]

MCL 700.424a(2); MSA 27.5424(1)(2) provides, in pertinent part:

(2) The parent or parents of a minor who desire to have the court appoint a limited guardian for that minor and the person or persons who desire to be appointed limited guardian for that minor shall develop a limited guardianship placement plan.

The limited guardianship placement plan shall include provisions concerning all of the following:

(a) The reason why the parent or parents are requesting the court to appoint a limited guardian for the minor.

(b) Parenting time and contact with the minor by his or her parent or parents sufficient to maintain a parent and child relationship.

(c) The duration of the limited guardianship.

(d) Financial support for the minor.

(e) Any other provisions that the parties agree to include in the plan.

Plaintiff argues that defendant failed to substantially comply with the limited guardianship placement plan because she failed to initiate steps to accomplish plaintiff's adoption of Sarina. The circuit court disagreed, concluding that while the parties' ultimate objective at the time the guardianship was executed was to have plaintiff adopt Sarina, and it was contemplated at the time that the limited

guardianship would continue until that point, the purpose of the limited guardianship was to provide health insurance for Sarina, and plaintiff complied with that purpose.

We agree with the circuit court's observation that the reason for and purpose of the limited guardianship was to provide health insurance, and defendant had no need to execute a limited guardianship to facilitate plaintiff's adoption of Sarina in light of the statutory provision for stepparent adoptions. MCL 710.51; MSA 27.3178(555.51). While the duration provision of the placement plan reflected the parties' ultimate objective at the time, it did not bear upon the purpose of the limited guardianship - - to obtain health insurance. The divorce proceedings rendered the duration provision regarding plaintiff's adoption of Sarina inapposite. Stated differently, the failure to initiate adoption proceedings was not indicative of a failure of compliance with the plan, but, rather, of the parties' changed circumstances. It is undisputed that Sarina obtained health insurance as proposed by the limited guardianship placement plan. Thus, the trial court properly concluded that defendant substantially complied with the plan, and plaintiff lacks standing to bring an action for custody of Sarina.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Kathleen Jansen

/s/ Helene N. White

¹ Case No. 97-553640 DO. Plaintiff did not assert rights as an equitable parent in the divorce action.